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SENATE

{ REPORT  
105-92

### NATIONAL GRASSLANDS MINERAL INTERESTS

SEPTEMBER 30, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 750]

The Committee on Energy and Natural Resources, to which was referred the Act (S. 750) to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.

(a) PURPOSE.—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

(b) EXCHANGE.—Notwithstanding any other provision of law—

(1) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as “Burlington” and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the “Secretary”) to all oil and gas rights and interests on lands identified on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995”, by quit-claim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quit-claim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP.—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995” or those lands described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

#### PURPOSE OF THE MEASURE

The purpose of S. 750, as ordered reported, is to direct the Secretary of Agriculture to enter into an equal value exchange of certain subsurface mineral interests in the National Grasslands in North Dakota.

#### BACKGROUND AND NEED

The land and mineral ownership pattern in the National Grasslands in western North Dakota is extremely fragmented. In many areas, the Forest Service manages the surface estate of the lands while private parties own the subsurface mineral estate. Pursuant to North Dakota State law, the right to develop the subsurface

minerals is dominant to the right to manage the surface area. Therefore, the current split ownership situation often frustrates Forest Service management objectives.

The Kinley Plateau roadless area is one such example of split ownership. The proposed equal value mineral exchange between the Forest Service and Burlington Resources Oil & Gas Company will consolidate mineral interests, thereby enabling the Forest Service to protect significant resource values. The Kinley Plateau is a well known bighorn sheep lambing area. The exchange will also result in the protection of the Little Missouri River viewshed, creating more attractive hiking, fishing, and hunting opportunities. The Forest Service and Burlington Resources have already entered into a memorandum of understanding, that will take effect after the exchange is completed, regarding oil and gas exploration and development methods in order to further increase protection of environmentally sensitive Forest Service lands.

#### LEGISLATIVE HISTORY

S. 750 was introduced by Senators Dorgan and Conrad on May 15, 1997. The Subcommittee on Forests and Public Land Management held a hearing on the bill on June 18, 1997. Similar legislation was introduced in the Senate during the 104th Congress, however, no further action was taken.

At the business meeting on September 24, 1997, the Committee on Energy and Natural Resources ordered S. 750, as amended, favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 24, 1997, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 750, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 750, the Committee adopted an amendment in the nature of a substitute that incorporates changes recommended by the Administration and makes technical and clarifying modifications.

#### SECTION-BY-SECTION ANALYSIS

Section 1(a) contains the purpose.

Paragraph (b)(1) states that the Secretary shall convey to Burlington all Federal oil and gas interests identified on a referenced map if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company conveys title acceptable to the Secretary of Agriculture to oil and gas interests as depicted on a referenced map.

Paragraph (2) requires the Secretary, if within 180 days the owners of remaining non-oil and gas mineral interests identified on the map convey title acceptable to the Secretary, to convey to those owners all remaining non-oil and gas mineral rights as agreed to by the Secretary and owners of those interests.

Subsection (c) requires that all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington be released prior to the Secretary's conveyance of Federal oil and gas interests.

Subsection (d) states that the values of the interests to be exchanged pursuant to paragraph (b)(1) shall be deemed to be equal.

Subsection (e) directs that the values of the interests to be exchanged pursuant to paragraph (b)(2) shall be approximately equal, as determined by the Secretary.

Paragraph (f)(1) instructs the Secretary to grant to Burlington the use of Federally-owned surface lands to explore for and develop interests conveyed to Burlington, subject to applicable Federal and State laws.

Paragraph (2) states that Burlington will have the same surface rights for oil and gas interests that it receives pursuant to this Act as it does for oil and gas interests that it currently owns.

Subsection (g) provides that all activities of Burlington relating to exploration and development on environmentally sensitive Forest Service lands shall be subject to an identified memorandum of understanding between the Forest Service and Burlington.

Subsection (h) requires that a copy of the map referred to in subsection (b) be provided to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives. This subsection further requires that the map be filed in the office of the Chief of the Forest Service.

Subsection (i) states that nothing in this Act shall limit, restrict, or otherwise affect the application of multiple use in any area of the Little Missouri National Grasslands.

#### COST AND BUDGETARY CONSIDERATIONS

Cost estimates prepared by the Congressional Budget Office were not available at the time the report on S. 750 was filed. When the report become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 750. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 750, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

Legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 750 were unavailable at the time the report on S. 750 was filed. When the report becomes available, the Chair-

man will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Committee hearing follows:

STATEMENT OF ROBERT JOSLIN, DEPUTY CHIEF, FOREST  
SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, I am Bob Joslin, the new Deputy Chief of the Forest Service for National Forest System. I am pleased to be here to share the Administration's views on S. 750.

*S. 750, Consolidate Mineral Interests in Billings County,  
North Dakota*

The Administration supports the objectives of S. 750, to allow consolidation of mineral interests, including oil and gas, in the National Grasslands in Billings County, North Dakota, but cannot support the bill as introduced because of the sufficiency language included in it. The bill provides for the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection.

The Administration would like to work further with the Senator, Burlington Resources, and other interested parties to develop a bill that can be supported. The attached Supplemental Statement reflects language the Administration could support.

The Kinley Plateau roadless area includes some lands that were purchased by the Forest Service without the mineral interests, many of which continue to be held by private parties. Under North Dakota state laws mineral rights are dominant over surface rights, resulting in a potential for the development of the mineral interests with surface impacts within the roadless area. The roadless area was designated, in part, to protect a bighorn sheep lambing area. This bill would provide the opportunity to immediately consolidate oil and gas mineral interests, primarily within the Kinley Plateau roadless area, through an exchange of oil and gas mineral interests, outside of the roadless area, with Burlington. It also allows for continued negotiations with other individuals or corporations to exchange outstanding non-oil and gas mineral interests.

Subsection (h) provides that the exchange shall be deemed to meet the requirements of all other federal laws. This language is unacceptable to the Administration which believes that appropriate environmental analysis should, and can, be completed to facilitate the exchange in a timely manner.

The Administration would like to work with Senator Dorgan's staff and Committee staff to facilitate the protection of these resources while complying with the National Environmental Policy Act and all other environmental laws.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 750, as ordered reported.

